

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3324 of 1983

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

MAHENDRABHAI G RAVAL

Versus

GUJARAT STATE KHADI GRAMODYOG BOARD

Appearance:

MR SR BRAHMBHATT for Petitioners
MS MAMTA VYAS for Respondents No. 1, 2
MR SR DIVETIA for Respondent No. 3

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 10/07/97

ORAL JUDGEMENT

1. The petitioners, in all twelve in number, Supervisors working in the Gujarat State Khadi Gramudyog Board at Ahmedabad, filed this Special Civil Application and prayer has been made for declaration that the petitioners are entitled to pay scale of Rs.380-560 w.e.f. 1-1-1973 as Supervisors in the respondent-Board.

2. The facts of the case relevant for the purpose of deciding the controversy which has arisen in the present case are as under:

The respondent-Board is constituted under the provisions of Bombay Khadi and Village Industries Act, 1960 and is an autonomous body incorporated and having its perpetual succession and common seal. The respondent No.2 is the officer appointed under the aforesaid Act. The Board is entitled to determine the remuneration and allowances and other conditions of service of its officers and employees. The State of Gujarat has revised the pay scales of its employees on the basis of the recommendations made by the Desai Pay Commission w.e.f. 1-1-1973. The Board has decided to follow the Desai Pay Commission pay scales to be granted to its officers and employees. Under the resolution of the Managing Committee of the Board dated 4-2-1976, it has been left to the Chairman of the Board to decide the corresponding pay scales of the officers and employees of the Board relying upon the recommendations of the Board. In September, 1976, tentative corresponding grades were published by the Member Secretary of the respondent-Board. The petitioners were conveyed that their proposed new grade subject to the approval of the State Government would be Rs.260-430. The petitioners have felt dissatisfied with this proposal of the pay to be given to Supervisors, made a grievance to the authorities of the Board and they claimed their pay scale of Rs.380-560. They have also made a grievance that earlier also they have been put to the lower pay scale in the past pay Commission. The petitioners have submitted that so far as the recommendations of the Desai Pay Commission were concerned, having regard to the post, qualifications and type of work as in other corresponding Government departments, Supervisors should be given the pay scale of Rs.380-560 and such pay scale should have been accepted by the Board. On 21st August, 1977, the staff of Technical Supervisors wrote to the authorities including the Hon'ble Chief Minister of the State wherein it was pointed out that enough injustice was caused to the petitioners at the time of granting pay scales under the Serala Pay Commission. It was pointed out that those who were getting Rs.200-340 were given the pay scale of Rs.380-560 under the Desai Pay Commission. It has further been pointed out that the Desai Pay Commission has applied a different standard, namely, that the Commission referred to the qualification and type of work and Commission had not gone on figures only, and therefore, it was suggested that the petitioners should be given the pay scale of Rs.380-560.

3. The Board had arrived at a decision on 9-3-1977 for giving of the revised pay scales to its officers and employees and though this decision has been taken in the year 1977, but the revised pay scales were given effect to from 1-1-1973. The benefit of the revised pay scales from 1-1-1973 was given to the non-technical staff of the Board. The petitioners made a representation to the Government and the Board to appoint a Committee to resolve out the dispute of fixation of the pay of the petitioners in the revised pay scale. Reference has been made by the petitioners to the note of the Government of November, 1977 and in pursuance of the same, a letter has been addressed to the Executive Officer of the Board by the Government wherein it was stated that the pay scale of Jr. Supervisors which was tentatively Rs.260-350 should be Rs.350-560 because in the corresponding posts in the Government the grade was Rs.350-560 and so the petitioners who are the Supervisors have to be given the higher pay scale than the Jr. Supervisors, and thus the claim has been made for the pay scale of Rs.380-560. The Committee which had been constituted by the Government, which consisted of Government nominees, also suggested that the Supervisors in the Board should be given the pay scale of Rs.380-560 and the same should be given effect from 1-1-1973. However, the petitioners submit that the Government and the Board for the reasons best known to them have not agreed to give this effect from 1-1-1973. The matter went on discussion between the Government and the Board and in June, 1982 the Board came to the conclusion that in pursuance to the decision of the Government, Supervisors should be given the pay scale of Rs.330-560 from June, 1982 and Jr. Supervisors should be given the pay scale of Rs.290-480 subject to compliance of certain qualifications. The result of this resolution is that the petitioners shall get the pay scale of Rs.260-430 from 1-1-1973 to 16-6-1982 and from 17-6-1982 they will be in the pay scale of Rs.330-560. Hence, this Special Civil Application before this Court.

4. The only defence of the Board is that it is bound by the order of the Government and whatever the pay scale which has been sanctioned and from which date it has been sanctioned has to be given to the petitioners and which has been given.

5. So far as the Government is concerned, it has taken a defence that on bifurcation of the administrative cadre and the technical cadre which came into force from June, 1981, the employees of the technical cadre asked for a further revision of their pay scales of Rs.260-430.

The Committee was appointed by the Government by a circular dated November 22, 1978 and the said Committee recommended the revision of the pay scale from 260-430 to Rs.350-600 after considering the relevant aspects including the comparable pay scales. However, the Government had decided on 8th January, 1982 to grant the pay scale of Rs.330-530 for Supervisors w.e.f. 8th January, 1982, which is being paid. Thereafter, the 4th Pay Commission has revised the aforesaid pay scale and also the pay scale of Rs.350-560 to Rs.1200-2400 which has been accepted without objection by the petitioners w.e.f. 1-1-1986.

6. So there is a discrepancy between the petitioners' case and the respondent-Government's reply that as per the petitioners the revised pay scale has been given from June, 1982 whereas as per the Government reply it has been given from January, 1982. However, it is not material for the purpose of deciding this writ petition for the reasons to be stated later on. Further reply has been filed by the State Government and it has been stated that there was no screening mechanism applied for appointing the petitioners nor there was any post like Supervisor as claimed by the petitioners for which they were appointed. For the first time, rules were framed in exercise of powers conferred under sec.30 of Bombay Khadi and Village Industries Act, 1960, and accordingly vide Government Notification dated 1-7-1981 the rules were prescribed and posts in question came to be statutorily recognised by the administration. So, under these rules, the cadres were bifurcated in clerical and technical and the petitioners were taken in technical cadre on the basis of their experience. Again it has been repeated that a committee was constituted and the Government of Gujarat on the basis of the proposal made and examined, decided to extend the benefits of revision of pay scales with the prospective dates to the petitioners.

7. It is unfortunate that Shri Divetia who is appearing for the respondent-Government is unable to assist the Court for want of papers of the case as well as necessary instructions. However, he contended that the Government has acted very fairly on the grievance of the petitioners and a committee had been constituted for considering their claim, but the Government has not accepted the claim of the petitioners to the fuller extent and their pay has been revised to Rs.330-560 and that too from prospective date, and as such, this Court should not interfere in the matter. The petitioners are claiming parity with the other services of the Government

departments, and as such, the heavy burden lies upon them to establish that in respect of the qualifications for recruitment, duties and the job, the posts are identical.

8. The counsel for the petitioners contended that the Government earlier itself has recommended the higher pay scale for the Jr. Supervisors and the Committee which had been constituted in 1979 also recommended the higher pay scale for the Supervisors in the Board i.e. Rs.350-600, but the Government has decided to give only Rs.330-560 and that is from January 8, 1982 as per their case and from June, 1982 as per the case of the petitioners. No reasons good, bad or indifferent are given for not accepting the claim of the petitioners for the pay scale of Rs.380-560. Once the claim has been made, a committee has been constituted and the recommendations have been given before not accepting those recommendations, the reasons should have been given which have not been given in the present case.

9. I do not consider it to be appropriate to go on this question in detail. However, the facts are that the Government has recommended earlier higher pay scale for Jr. Supervisors in the Board, but that was not accepted and the petitioners have made a grievance and the Government has constituted a committee for considering the pay scales to be fixed for the employees of the Board. The Committee has recommended the higher pay scale, but the government has given the lower pay scale and that too from prospective effect. The revised pay scales have been given from 1-1-1973 to all other persons, but in the case of petitioners, it has been taken to be a case of double revision and for the period from 1-1-1973 to June, 1982 or January, 1982 as the case may be, they have been given the lower pay scale and then from January, 1982 or June, 1982 as the case may be, they have been given the higher pay scale. The Committee constituted had recommended higher pay scale, and the pay scale of the Supervisors in the Government departments is also higher. But merely stating that the Supervisors of the other departments of the Government are getting the higher pay scale ipso facto will not give the entitlement to the petitioners for the higher pay scale, as the parity has to be examined by a committee to be constituted. However, in the case in hand, the case of the petitioners was not fairly dealt with by the Government. In such matters, when the claim has been made, the Government being a welfare State, its action should be fair and transparent and reasons should have been there for not accepting the claim of the petitioners for higher pay scale. Still the matter is not stagnate

and it is subjudice before this Court. I find sufficient justification in the contention of the counsel for the respondent-State that in the matter of equation of the posts with reference to the qualifications, duties and responsibilities and functions to be discharged, and the matter of parity in the pay scale, it has to be decided by the expert committee of the officers of the Government and this Court may not enter into this arena at this stage.

10. The interest of justice will be met in case this writ petition is disposed of in the terms that the respondent-State is directed to constitute a three member committee consisting of Finance Secretary of the State of Gujarat, Secretary concerned of the department and the Law Secretary to examine the matter regarding the claim of the petitioners of the pay scale of Rs.380-560. It shall be the duty of the petitioners to produce whatever material they want to produce in support of their claim and on the basis of which they justify their claim of the pay scale of Rs.380-560 before the said committee immediately on receiving the intimation of the constitution of the committee. The matter has already been delayed. The committee so constituted shall decide two issues, whether the petitioners' pay scale should be revised to Rs.380-560 and second, the revision if accepted, it should be given effect from which date i.e. 1-1-1973 or by some other date. The committee shall afford an opportunity of hearing to the petitioners, if they so desire. In case the claim of the petitioners is not accepted by the committee then a reasoned decision may be given and copy of the same may be communicated to the petitioners by registered post A.D.. It is expected that the committee shall be constituted on receipt of certified copy of this order within reasonable time, say two months and the committee shall decide the matter within a period of six months from the date of its constitution. The committee immediately on its constitution shall give a date to the petitioners to file all the documents in support on their claim or on the basis of which they justify their claim of the revised pay scale of Rs.380-560 and then the committee shall decide the matter. The Special Civil Application and Rule stands disposed of in the aforesaid terms with no order as to costs.
